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December 31, 2012

Cindy Bladey
Chief, Rules, Announcements, and Directives Branch (RADB)
Office of Administration, Mail Stop: TWB-05-B01M,
U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001

Dear Ms. Bladey;

The Decommissioning Plant Coalition (DPC) provided comments at the NRC staffs' November 14, 2012 public meeting on the scoping process for an Environmental Impact Statement to support rulemaking to update the Commission's Waste Confidence decision. The DPC also appreciates this opportunity to submit formal comments for the record. We recognize that the NRC staff faces an ambitious schedule for these important tasks and we are willing to assist the Commission in any way possible to facilitate your work.

The Decommissioning Plant Coalition was established in 2001 to highlight issues unique to nuclear power plants undergoing decommissioning. The DPC is focused on addressing the needs of single unit sites that are undergoing or have completed decommissioning activities. Members of the Decommissioning Plant Coalition include the Big Rock, Connecticut Yankee, LaCrosse, Maine Yankee, Rancho Seco, and Yankee Rowe facilities.

We have often stated, and state again here, that our sites have, do, and will keep the stored spent fuel and GTCC safe and secure as long as we are the owners and licensees.

First Principle

Our first comment is that the Commission must, as its first principle, continue to hold to its long-established tenet that it does not endorse the indefinite on-site storage of spent nuclear fuel (and Greater-Than-Class-C waste). The Commission

has articulated this principle in its previous Waste Confidence findings and should continue to do so.

This EIS Scoping Process Effort

We believe that the scope of this NRC effort should be bound, or limited, to the three specific deficiencies identified by the Court in the NRC's NEPA analysis supporting the Commission's 2010 update.

We also believe that the NRC should ensure that it properly bounds the environmental impacts of its actions, and not those of other federal agencies, in particular the DOE. We do not believe that the NRC must or should as part of this effort, undertake a broader examination of the nation's spent fuel storage, transportation, and disposition regulatory program to address the specific deficiencies found by the Court. Also, the NRC should not introduce speculation about what may or may not be specific regulatory and research-related issues in the longer term and import them into discussion of the current assessment of safety and security via this effort.

Finally, your effort should adequately recognize and emphasize a fundamental principle behind Waste Confidence and the nation's civilian spent fuel management effort: that the federal government, currently acting through DOE, is responsible for the development of all necessary infrastructure for long-term spent nuclear fuel (SNF) and Greater-Than-Class-C (GTCC) waste management, not the individual NRC licensee/DOE contract holder.

Specific DPC Comments

Because the DPC member sites are all dry cask storage ISFSI facilities and will not have any risk of leaks from spent fuel pools for 60 years after the expiration of the operating license, and will not have any potential for consequences from spent fuel pool fires, we do not offer comments on two of the three areas that the Court found deficient.

As the Court decision held that the Commission did not evaluate the environmental effects of failing to secure permanent disposal, we would offer the following.

1. The federal government will act to fulfill its Constitutional and statutory obligations to protect citizens from safety and security threats. Therefore, the environmental impacts of a postulated failure to secure a repository must be measured against the surety and reality that the federal government will act in cases where spent fuel safety and security issues arise that are beyond the scope of NRC regulatory authority and resulting licensee responsibility. While we rightfully criticize the failure of the federal government's failure to fulfill its contractual responsibility to remove SNF and GTCC from our sites to date and that the federal government has failed to pursue its statutory mandate to dispose of this material,

those failures do not override the simple fact that the federal government has acted and will act in cases where there exists an imminent radiological safety or national security threat.

2. The continued failure of the federal government to meet its obligations under the Nuclear Waste Policy Act makes it likely that the Commission will have to consider interim measures until progress on management of the SNF and GTCC resumes.

3. The DPC believes that removal of spent fuel and GTCC to Consolidated Interim Storage (CIS) on a priority basis from permanently shutdown and otherwise decommissioned reactors is one such action that should be considered. We believe this scenario is at least as likely, and probably more likely, than extended storage at these sites for 40-100 more years. We base this on the support shown for CIS from the Congress, from the Blue Ribbon Commission, and from the legion of state, regional, and local governmental entities that call for this effort and from the near-universal support it enjoys from non-governmental organizations (NGO's).

We also note that the NRC has successfully issued a license for CIS at Private Fuel Storage that proves that the NRC is well-versed in such a licensing process.

Among the NGO's commenting on behalf of CIS are The American Physical Society, the National Commission on Energy Policy, The Keystone Center, The New England Council, the Nuclear Waste Strategy Coalition, the Nuclear Energy Institute, the National Conference of State Legislatures, the National Association of Regulatory Utility Commissioners, the Natural Resources Defense Council, the MIT Center for Advanced Nuclear Energy Systems, the American Public Power Association, the National Rural Electric Cooperative Association, the Edison Electric Institute, the Associated Industries of Massachusetts, the Chemical Industry Council of Illinois, the National Black Caucus of State Legislators, and the National Association of Regional Councils.

4. Should the Commission evaluate the continued indefinite storage at permanently shut-down reactor sites, despite its tenet that it will not endorse such a program, the Commission must assume that the Department of Energy will address any infrastructure issues arising from such indefinite storage at permanently shut-down facilities such as developing, demonstrating, and maintaining the capability to remove and/or repackage any canisters or casks that may require such action. This includes developing, demonstrating, and maintaining the capability to modify sites to conform to new NRC or other federally mandated security requirements. In as much as the federal government is the party that has failed to discharge its responsibilities to remove the SNF/GTCC, and the Department of Energy is the contract holder to carry out these responsibilities, and since the Secretary has – according to that contract – the ability to remove this material from permanently shutdown reactors first, then additional environmental impacts caused by the continued on-site storage at these sites is solely due to the actions or inactions of the

federal government, and the Commission must assume these costs will be borne by the government as the responsible party.

5. One of the objectives of the scoping process is to identify and eliminate from detailed study those issues that are peripheral or that are not significant. The Commission should not import into this process all of the material from NRC's "Draft Report for Comment -- Background and Preliminary Assumptions for an Environmental Impact Statement -- Long-Term Waste Confidence Update" (hereinafter "Draft Report"). We found many flaws in the Draft Report and recommended that work on it pause. The scope of the effort now at hand should be limited to addressing the deficiencies that were found by the Court. We urge the staff and the Commission to exercise care in distinguishing between assumptions and scenarios in the Draft Report and any staff evaluation of those comments that pertain to those deficiencies and those that do not. As it is premature to judge what scenarios will be evaluated in the effort at hand, we also urge the staff and Commission to consider the comments and cautions we provided to the staff in connection with the Draft Report when building such scenarios.¹

Offered on behalf of the Decommissioning Plant Coalition,



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¹ DPC letter dated Feb 16, 2012 to Christine Pineda, NRC, Office of Nuclear Material Safety and Safeguards.